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May 22, 2007

The Honorable Patti B. Saris  
United States District Court  
for the District of Massachusetts  
John Joseph Moakley U.S. Courthouse  
One Courthouse Way, Room 6130  
Boston, MA 02210

Re: The HipSaver Company, Inc. v. J.T. Posey Company  
USDC-District of Massachusetts, Case No. CV-05-10917 PBS  
Our File No. 16112.24

Dear Honorable Judge Saris:

I write in response to Mr. Dailey's letter requesting that trial not start on June 4, 2007. Although we are sympathetic to Mr. Dailey's predicament, J.T. Posey Company must oppose his request because granting the request would prejudice Posey.

As a preliminary matter, Mr. Dailey's request may very well become moot. As the Court noted in its decision regarding the parties' motions for summary judgment, although the Garwood ads started about five years ago, HipSaver has yet to come forward with any admissible evidence of any actual damage. The Court has allowed HipSaver one more try. Posey does not believe HipSaver has any admissible evidence consistent with its discovery responses to show damage. As such, no trial may be needed on HipSaver's claims.

In the event there is a trial, Posey wants it to start on June 4, 2007 for the following reasons:

1. The date of June 4, 2007 has been before the parties for a substantial amount of time. Many of the witnesses and the Posey trial team have planned their business and personal schedules accordingly.
2. At least one Posey witness would not be available to testify if trial began on June 11, 2007.

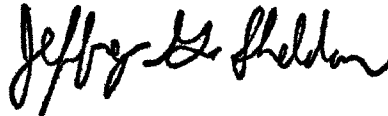
The Honorable Patti B. Saris  
May 22, 2007  
Page 2

3. There is a possibility trial would not be complete in the time available if it starts on June 11, 2007.

4. If the trial does proceed expeditiously starting on June 4, 2007, there is a possibility it could be completed before June 15, 2007, a date the court is dark. That would not happen if trial started on June 11, 2007. Delaying the start of trial to June 11 would cause Posey to incur additional expenses in terms of hotel rooms and meals for the day of June 15, 2007. It would also mean that the Posey trial team would be away from home for at least one additional day.

Respectfully submitted,

SHELDON MAK ROSE & ANDERSON PC

By: 

Jeffrey G. Sheldon  
Attorneys for J.T. Posey Company

JGS/kpl

cc: Edward J. Dailey, Esq. (via e-mail [Edailey@bromsun.com](mailto:Edailey@bromsun.com))  
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